

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

SAMANTHA FARMER & KARL FARMER § v. § SAM'S EAST, INC. §	§ § § §	PLAINTIFFS Civil Action No. 1:05CV496LG-RHW DEFENDANT
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ORDER DENYING PLAINTIFFS' MOTION TO RECONSIDER RULING

BEFORE THIS COURT is the Plaintiffs' Motion to Reconsider Ruling filed in the above-captioned cause on February 8, 2007. The Plaintiffs move the Court to reconsider the opinion and order entered by the undersigned on January 31, 2007, granting summary judgment in favor of the Defendant. For the reasons set forth below, the motion should be denied.

The Plaintiffs first contend that the Court failed to consider all authorities submitted by the parties. *Plaintiffs' Mot., p. 1, ¶¶ 7, 8 at p.5-6, filed February 8, 2007.* The Plaintiffs also contend that the Court erred in analyzing the expert testimony. *Plaintiffs' Mot. at p. 2.* In addition, the Plaintiffs contend that the Court erred in not considering and incorporating the testimony of Karl and Samantha Farmer in its opinion. *Plaintiffs' Mot. at p. 3.*

The Defendant filed a response in which it contends that the Plaintiffs failed to meet their burden in showing that they are entitled to relief. The Defendant further contends that each of the Plaintiffs' arguments lack a factual predicate. For these reasons, the Defendant contends that the motion should be denied.

FED. R. CIV. P. 59(e) allows the Court to alter or amend a judgment upon the following grounds:

(1) an intervening change in controlling law, (2) the availability of new evidence not previously available, and (3) the need to correct a clear error of law or prevent manifest injustice.

Joe v. Minnesota Life Ins. Co., 272 F.Supp.2d 603, 604 (S.D. Miss. 2003), *citing Atkins v. Marathon LeTourneau Co.*, 130 F.R.D. 625, 626 (S.D. Miss. 1990). A motion for reconsideration should not be used to relitigate old matters, raise new arguments, or submit evidence that should have been presented in earlier proceedings. *Karim v. Finch Shipping Co.* 111 F.Supp.2d 783, 784 (E.D.La. 2000).

Having reviewed the arguments of counsel, the undersigned is of the opinion that the Plaintiffs have failed to show an intervening change in controlling law, the availability of new evidence not previously available, or the need to correct a clear error of law or prevent manifest injustice. For this reason, the Plaintiffs' motion should be denied.

IT IS THEREFORE ORDERED AND ADJUDGED, that the Plaintiffs' Motion to Reconsider pursuant to FED. R. CIV. P. 59(e) filed February 8, 2006, [87] should be and is hereby **DENIED**.

SO ORDERED AND ADJUDGED this the 27th day of February, 2007.

St Louis Guirola, Jr.

LOUIS GUIROLA, JR.
UNITED STATE DISTRICT JUDGE